

REMARKS

Claims 4-11 have been rejected under 35 U.S.C. § 112, fourth paragraph, as being of improper dependent form for failing to further limit the subject matter of a previous claim. Accordingly, claims 4, 5, 8, 9, 10, and 11 have been amended to rewrite them in independent form to overcome the rejection. Claims 6 and 7 have not been amended since they are already written as dependent method claims further limiting the subject matter of now independent claim 5.

The Examiner has made a provisional rejection of claims 1-3 as claiming the same subject matter as claims 1-3 in co-pending application Serial No. 141,496, a provisional double patenting rejection. Claims 1-3 of co-pending Serial No. 08/141,496 claim ligands which exhibit the selective activation properties specified by the claims. In contrast, claims 1 and 2 of the instant application are more narrowly directed to compounds having a specified generalized formula, and claim 3 is very narrowly drawn to a compound selected from a group of five specific compounds. There are ligands which would literally infringe claims 1-3 of co-pending Serial No. 08/141,496 but which would not literally infringe the compounds more narrowly specified in claims 1-3 of the instant application. Therefore, claims 1-3 of the instant application do not claim the identical invention as claims 1-3 of co-pending Serial No. 141,496, (see, MPEP § 804; In re Vogel, 422 F.2d 438, 441, 164 U.S.P.Q. 619, 622 (CCPA 1970)), and applicants respectfully request reconsideration and withdrawal of the provisional rejection. In addition, should the provisional rejection become actual, applicants request the further opportunity to address the actual basis for the rejection. Applicants do not understand there to be any other basis for rejecting claims 1-3.

Accordingly, applicants believe claims 1-11 are now in condition for allowance.

Accompanying this Response and Amendment is applicants' authorization to charge Deposit Account No. 12-2475 for the additional independent claim fees of \$380.00 for this application, as amended. Also accompanying this communication is a petition requesting a three-month extension of time to file this Response and Amendment, along with authorization to charge Deposit Account No. 12-2475 for the extension fee.

The Commissioner is hereby authorized to charge any additional fees which may be required by this communication, or credit any overpayment, to Deposit Account No. 12-2475.

Respectfully submitted,  
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